

SENATE BILL 2394

By Johnson

AN ACT to amend Tennessee Code Annotated, Title 8,
Chapter 44, Part 1; Title 62 and Title 63, relative to
open meetings.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act is known and may be cited as the "Board Business Flexibility Act."

SECTION 2. Tennessee Code Annotated, Section 8-44-108(a)(1), is amended by
adding the following at the end of the subdivision:

For purposes of this section only, "governing body" does not mean a governing body of
the executive branch;

SECTION 3. Tennessee Code Annotated, Section 8-44-108(a), is amended by inserting
the following as a new subdivision:

() "Governing body of the executive branch" means a board, agency, or
commission of the executive branch of state government, and includes a board, agency,
or commission that is administratively attached to the executive branch of state
government;

SECTION 4. Tennessee Code Annotated, Sections 8-44-108(b)(1)-(4), are amended by
redesignating the subdivisions as subdivisions (b)(1)(A)-(D).

SECTION 5. Tennessee Code Annotated, Section 8-44-108(b), is amended by adding
the following new subdivision (2):

(2)

(A) A governing body of the executive branch may allow participation by
electronic or other means of communication for the benefit of the public and the
body in connection with a meeting authorized by law.

(B) A governing body of the executive branch shall meet with a quorum present in person no less than once each calendar year. For additional meetings, a governing body of the executive branch may establish a quorum in person or by electronic or other means of communication. If two (2) or more members of a governing body of the executive branch participate in a meeting in person at a location designated by the governing body of the executive branch for the meeting, then the notice required by this chapter must specify the physical location of the meeting and the governing body of the executive branch shall allow members of the public to physically attend the meeting at that location. If one (1) or more members of a governing body of the executive branch participate in a meeting by electronic or other means of communication, then the notice required by this chapter must specify the means by which a member of the public may access the meeting by electronic or other means of communication.

(C) If more than one (1) calendar year elapses without a governing body of the executive branch meeting with a quorum in person as required by subdivision (b)(2)(B), then the governing body of the executive branch shall report to the secretary of state that a physical quorum during the previous calendar year did not occur. The report must be made by January 15 of the calendar year following the failure of the governing body of the executive branch to satisfy the physical meeting requirement of subdivision (b)(2)(B). The report must include the name of the governing body of the executive branch, the dates on which the governing body of the executive branch met with an electronic quorum, and the circumstances that prevented the governing body of the executive branch from meeting with a quorum in person at least once during the previous calendar year.

(D) This section does not prohibit a governing body of the executive branch from complying with § 8-44-109.

(E) Notwithstanding a provision of this part to the contrary, § 4-5-312(c) controls electronic participation in contested case hearings pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3; provided, however, that this subdivision (b)(2) applies to meetings held to take summary action pursuant to § 4-5-320(c) and to review summary action pursuant to § 4-5-320(d)(2).

SECTION 6. Tennessee Code Annotated, Section 8-44-108(c)(2), is amended by deleting the subdivision and substituting:

(2) Notices required by the Open Meetings Law, or another notice required by law, must state whether a meeting will be conducted permitting participation by electronic or other means of communication, including instructions on how to access or participate in the meeting by electronic or other means of communication, if applicable.

SECTION 7. Tennessee Code Annotated, Section 8-44-108(c)(3), is amended by adding the language ", or accessible by electronic or other means where the notice specified that the meeting would be accessible by such means" after "location of the meeting".

SECTION 8. Tennessee Code Annotated, Section 8-44-108(c)(4), is amended by deleting the language "of a governing body".

SECTION 9. Tennessee Code Annotated, Section 8-44-108(c)(5), is amended by deleting the language "held pursuant to the terms of this section" and substituting "where a member is participating by electronic or other means of communication".

SECTION 10. Tennessee Code Annotated, Section 8-44-108(c)(6), is amended by deleting the subdivision and substituting:

(6) A member participating in a meeting by electronic or other means of communication is deemed to be physically present at the meeting for purposes of voting. A member participating in a meeting by electronic or other means of communication is deemed to be present physically at the meeting for purposes of establishing a quorum, except for the purpose of satisfying the physical quorum requirement under subdivision (b)(2)(B). A member participating in a meeting by electronic or other means of communication is not deemed to be physically present for purposes of receiving compensation, whether denominated per diem or by whatever name called, if the eligibility for compensation is dependent upon the member's physical presence at the meeting.

SECTION 11. Tennessee Code Annotated, Section 62-6-109(f), is amended by deleting the subsection.

SECTION 12. Tennessee Code Annotated, Section 62-13-206(c), is amended by deleting the subsection.

SECTION 13. This act takes effect upon becoming a law, the public welfare requiring it.